

### **REMARKS/ARGUMENTS**

In response to the pending Office Action of February 18, 2009, Applicants present the following arguments and amendments. The present amendments are requested solely for the purpose of more clearly describing and claiming the present invention and do not introduce any new matter. Applicants reserve the right to pursue the subject matter of the claims as originally presented. Applicants submit that in light of the arguments presented and amendments requested, this application is in condition for allowance. Accordingly, entry of these amendments, reconsideration of all pending rejections and objections, and passage to allowance is respectfully requested. With the entry of this amendment, claims 6-10, 12-14 and 17-22 are pending herein.

#### **1. Amendments to the Claims**

Claims 11, 15 and 16 are cancelled without prejudice to the subject matter therein. Applicants expressly reserve the right to pursue this subject matter. Cancellation of claims 11, 15 and 16 does not introduce any new matter.

Amendment of claim 6 is requested to more particularly point out and distinctly claim the present invention. Support for the amendments to claim 6 are provided in claims 11 as originally presented and throughout the specification. The requested amendment of claim 6 does not introduce any new matter.

Amendment of claim 7 is requested to correct an obvious typographical mistake introduced with the last response. Support is provided by claim 7 as originally presented. The requested amendment of claim 7 does not introduce any new matter.

Amendment of claim 9 is requested to more particularly point out and distinctly claim the present invention. Support for the amendments to claim 9 are provided in claims 11 as originally presented and throughout the specification. The requested amendment of claim 9 does not introduce any new matter.

Amendment of claim 12 is requested to more particularly point out and distinctly claim the present invention. Support for the amendments to claim 12 are provided in claim 15 as originally presented and throughout the specification. The requested amendment of claim 12 does not introduce any new matter.

Amendment of claim 18 is requested to correct an obvious typographical mistake. Support is provided by claim 1, 3, 5 and 6 as originally presented. The requested amendment of claim 18 does not introduce any new matter.

**2. Allowable Subject Matter**

In the Office Action of February 18, 2010, claims 11 and 15 were objected to but indicated as allowable if rewritten in independent form. Claim 11 is cancelled herewith and the limitations are introduced into independent claims 6 and 9. Claim 15 is cancelled herewith and the limitations are introduced into claim 12. Withdrawal of the objections is respectfully requested.

**3. Rejection of Claim 7 under 35 U.S.C. § 112**

Claim 7 is amended herewith to correct a typographical error noted by the Examiner; reconsideration and withdrawal of the rejection of claim 7 is respectfully requested.

**4. Rejection of Claims 6-10, 12-14 and 17-22 under 35 U.S.C. § 102 or 103**

Claims 6-10, 12-14 and 17-22 are rejected under 35 U.S.C. § 102(e) or alternatively 103(a) as allegedly unpatentable over Gillibolian et al (US 2003/0235828).

Without acceding to the Examiner's rejection of these claims and for the sole purpose of expediting passage to allowance, claims 6, 9 and 12 are amended with this response. Applicants request reconsideration and withdrawal of the present rejections under 35 U.S.C. § 102 or 103 in light of the present amendments and arguments.

Claims 6 and 9 are amended to introduce limitations from claim 11 as originally presented and claim 12 is amended to introduce limitations from claim 15 as originally presented, which conforms these claims to the subject matter indicated as allowable in the Office Action of February 18, 2010. In addition, claims 7-8 and 17-19 depend from claim 6; claims 10, 12-14 and 20-22 depend from claim 9; and claims 13-14 depend from claim 12, and accordingly these claims are also within the scope of allowable subject matter as identified by the Examiner.

Claims 6-10, 12-14 and 17-22 are not anticipated nor rendered obvious by the prior art because the prior art does not provide teaching sufficient to arrive at the present invention as claimed, as they fail to disclose a QC probe which has the same base sequence as that of the target probe, but is labeled with a fluorescent material having a different excitation/emission wavelength from a fluorescent material for the target probe or use of a probe labeled with fluorescent materials having different wavelengths each from other to simultaneously inspect an immobilization state of probes and hybridization reaction with a target product. Accordingly, reconsideration and withdrawal of the rejections of claims 6-10, 12-14 and 17-22 is respectfully requested.

**CONCLUSION**

In view of the foregoing, this case is considered to be in condition for allowance. Therefore entry of the amendment and passage to issuance is respectfully requested. If new issues of patentability are raised, the Examiner is invited to call and arrange for an opportunity to discuss these issues via telephone interview.

It is believed that no fees are required for this submission. If any extension of time is required, applicant hereby petitions for the minimum extension of time necessary for this response to be timely filed. If, however, any fees or extensions of time are required, please charge the appropriate fees to Deposit Account No. 07-1969.

Respectfully submitted,

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